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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,048	07/23/2001	Julian E. Davies	DAM 552-00	3719
24211	7590	10/03/2003		
US ARMY SOLDIER AND BIOLOGICAL CHEMICAL COMMAND OFFICE OF THE CHIEF COUNSEL/IP TEAM (BLDG E4435) 5183 BLACKHAWK ROAD APG, MD 21010-5424			EXAMINER	
			LU, FRANK WEI MIN	
			ART UNIT	PAPER NUMBER
			1634	

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/911,048	<b>Applicant(s)</b> DAVIES ET AL.
	<b>Examiner</b> Frank W Lu	<b>Art Unit</b> 1634

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 06 June 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 31-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 31-38 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### **Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### **Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      4)  Interview Summary (PTO-413) Paper No(s). 9/03.  
 5)  Notice of Informal Patent Application (PTO-152)  
 6)  Other: Raw sequence listing error report

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**DETAILED ACTION**

*Response to Amendment*

1. Applicant's response to the office action filed on June 6, 2003 has been entered. The claims pending in this application are claims 31-38.

*Sequence Rules Compliance*

2. The sequencing listing submitted on June 6, 2003 has been received by the office. However, this sequencing listing still fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

Direct the reply to the undersigned.

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr.U. John Biffoni (Reg. No. 39,908) on September 29, 2003.

4. The application has been amended as follows:

Delete "an adenine analog" in line 5 of claim 31.

Replace "adenine analog thereof" with "2-aminopurine" in line 6 of claim 31.

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Delete "fluorescent adenine analog base" in claim 38.

5. The following is an examiner's statement of reasons for allowance:

Claims 31-38 are allowable in light of the applicant's amendments and the examiner's amendment. The closest prior art in the record are Kao *et al.*, (Proceedings of the ERDEC Scientific Conference on Chemical and Biological Defense Research, pages 483-491, on November 17-20, 1998, at Aberdeen Proving Ground, MD, United States), Zamboni *et al.*, (Biochem. J., 259, 639-643, 1989), Szewczak *et al.*, (Proc. Natl. Acad. Sci. USA, 99, 9581-9585, 1993), Brigotti *et al.*, (Nucleic Acids Res., 26, 4306-4307, 1998), Nuovo *et al.*, (US Patent No. 5,538,871, published on July 23, 1996), and Eck *et al.*, (US Patent No. 6,034,233, priority date: May 4, 1990). These prior art do not teach that "A<sub>x</sub>" is a nucleotide comprising 2-aminopurine. These prior art either alone or in combination with the other art in the record does not teach or reasonably suggest a method of the qualitative and/or quantitative detection of a ribosome inactivating protein which comprises all of the limitations recited in claim 31.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94

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(December 28, 1993)(See 37 CAR § 1.6(d)). The CM Fax Center number is either (703) 308-4242 or (703)305-3014.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Lu, Ph.D., whose telephone number is (703) 305-1270. The examiner can normally be reached on Monday-Friday from 9 A.M. to 5 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached on (703) 308-1152.

Any inquiry of a general nature or relating to the status of this application should be directed to the Chemical Matrix receptionist whose telephone number is (703) 308-0196.

Frank Lu  
October 1 2003



ETHAN WHISENANT  
PRIMARY EXAMINER